Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Resources Optimization	)	CC Docket No. 99-200
	)	
Connecticut Department of Public Utility Control	)	NSD File No. L-02-03
Petition to Implement Specialized Overlays	)	

SPRINT PCS OPPOSITION

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Summary

The Connecticut petition does not meet the burden that the Commission established only two months ago – namely, the petitioning state must demonstrate that (a) the proposed specialized overlay ("SO") is "superior to an all-services overlay" and (b) the "benefits will outweigh the costs of implementing the SO."

The Connecticut petition is premised on several assumptions that are unfounded. Sprint PCS demonstrates that a specialized overlay, like any form of area code relief, does not constitute number conservation and an SO does not enhance number optimization in any way. Sprint PCS further demonstrates that an SO would be anti-competitive and discriminatory to mobile carriers and customers, that Connecticut cannot successfully segregate certain technologies in an SO, and that CMRS is a geographic-based service such that CMRS cannot be included in an SO designed for only non-geographic-based services.

The Connecticut petition does not demonstrate that an SO would be superior to an all-services overlay. Connecticut cites several reasons that are equally applicable to other forms of area code relief and has not undertaken the cost/benefit analysis required by the Commission. While an all-services overlay imposes costs that are technology-neutral, a specialized overlay imposes substantial additional costs upon the select carriers segregated in the SO.

Although Sprint PCS does not believe that an SO can normally be justified, the FCC should impose four conditions, if it decides to delegate SO authority to Connecticut:

1. Mobile customers should not be forced to "give back" their telephone numbers;
2. Ten-digit dialing should be required for all local calls in the area covered by an SO;
3. There should be no changes in the routing and rating of land-to-mobile calls; and
4. Pooling-capable carriers placed in an SO should be able to participate in existing number pools.

Finally, while area code relief is needed in Connecticut, activation of two relief codes would be wasteful and would have the undesirable effect of accelerating the premature exhaust of the North American Numbering Plan, thereby undermining the FCC's optimization efforts. Implementation of one relief code, covering the entire State of Connecticut, can adequately address the long-term numbering needs in Connecticut.

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Sprint Spectrum, L.P., d/b/a/ Sprint PCS ("Sprint PCS"), opposes the petition submitted by the Connecticut Department of Public Utility Control ("CTDPUC") for delegated authority to implement two "specialized" overlay numbering plan area ("NPA") codes in Connecticut for the reasons stated below.[1]

I. INTRODUCTION

The CTDPUC petition does not meet the standards that the Commission established only two months ago – namely, that the petitioning state demonstrate that (a) the proposed specialized overlay ("SO") is "superior to an all-services overlay" and (b) "the benefits will outweigh the costs of implementing the SO"[2], and accordingly, the authority requested should not be granted. More fundamentally, Sprint PCS demonstrates below that adoption of the CTDPUC proposal would accelerate the premature exhaust of the North American Numbering Plan ("NANP") and

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[1] *See Public Notice,* Common Carrier Bureau Seeks Comment on the Petition of the Connecticut Department of Public Utility Control for Delegated Authority to Implement Transitional Service-Specific and Technology-Specific Overlays, CC Docket No. 99-200, NSD File No. L-02-03, DA 02-274 (Feb. 6, 2002). The CTDPUC initially filed its petition on March 12, 2001 ("CTDPUC Petition"), which it supplemented on January 18, 2002 ("CTDPUC Supplement").

[2] *Numbering Resources Optimization,* CC Docket No. 99-200, *Third Report and Order,* FCC 01-362, ¶¶ 80-81 (Dec. 28, 2001)("*Third NRO Order*").

would thus undermine rather than enhance the Commission's optimization efforts. The proposal would, moreover, discriminate against wireless carriers generally, and new entrant PCS licensees in particular. Thus, in addition to being inefficient and wasteful of scarce telephone numbers, the proposal would contravene 47 C.F.R. §52.9, which provides that area code relief "not unduly favor or disfavor any particular telecommunications industry segment" and "not unduly favor one telecommunications technology over another."[3]

Connecticut is in need of area code relief. Ninety-six (96) percent of the NXX codes in the 860 NPA have already been assigned (763 of 792), and the remaining supply of 29 NXX codes could exhaust in a few months.[4] The second Connecticut NPA, 203, is expected to exhaust next year, as ninety-four (94) percent of the NXX codes in this NPA (743 of 792) have already been assigned.[5] However, while relief is necessary, Connecticut does not need two additional NPAs, and Sprint PCS demonstrates below that implementation of one all-services overlay encompassing the entire state would be the most efficient relief solution and would help to preserve the life of the NANP.

Sprint PCS asks the Commission to act expeditiously on the CTDPUC petition. While this matter is pending, the CTDPUC may delay area code relief, which could lead to a complete exhaust of the 860 NPA. Exhaust will mean that wireless and other carriers dependent on NXX code assignments will be unable to obtain the numbers they need to provide the services that the public finds of value.

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[3] 47 C.F.R. § 52.9(a)(2) and (3). Congress has similarly directed that numbers be made available "on an equitable basis." 47 U.S.C. § 251(d)(1).

[4] According to NANPA data (*see* www.nanpa.com), there were 29 NXX codes available in the 860 NPA as of February 12, 2002. Seven codes are available in the lottery conducted each month.

[5] According to NANPA data, there were 49 NXX codes available in the 203 NPA as of February 12, 2002. Three codes are available in the lottery conducted each month.

The Commission adopted the specialized overlay criteria because it recognized that specialized overlays could undermine its optimization efforts (by accelerating NANP exhaust), result in "significant cost and inconvenience" to consumers, and distort competition.[6] The CTDPUC petition has not met the standards established by the Commission for the implementation of a specialized overlay. The Commission has, therefore, no choice but to deny the CTDPUC petition.

II. THE CTDPUC PETITION RELIES UPON UNFOUNDED PREMISES

The CTDPUC's request is premised upon several key assumptions regarding the impact and effectiveness of specialized overlays. These assumptions are not grounded in fact, as Sprint PCS demonstrates below.

A. NPA Relief Does Not Constitute Number Conservation and a Specialized Overlay Would Not Enhance Number Optimization

The CTDPUC states in its Supplement that implementation of one or more specialized overlays ("SOs") in Connecticut would further optimize number assignment:

> [An SO] is an additional numbering resource optimization measure affording states another tool to assign telephone numbers (TN) in a more efficient manner. * * * [An SO] is a workable solution to further telephone numbering optimization measures in Connecticut.[7]

Sprint PCS must respectfully disagree. A specialized overlay – or any other form of NPA relief for that matter – does not, *and cannot by definition*, constitute number conservation (a.k.a., "optimization"). The purpose of number conservation, the Commission has declared, is to im-

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[6] *See, e.g., Third NRO Order* at ¶¶ 71, 78, 85 and 88.

[7] CTDPUC Supplement at 4 and 8-9.

prove the efficiency with which carriers use the numbers *already assigned to them* so as "to prolong the life of the North American Numbering Plan (NANP)":

> Because the estimated cost of expanding the NANP is enormous, and the time to effect such an expansion is estimated to be on the order of ten years, the need to extend the life of the current NANP through effective conservation and efficient utilization of numbering resources is apparent and immediate. * * * By maximizing efficient use of numbers within area codes, we reduce the need to introduce new area codes, which can help prevent premature exhaust of the existing NANP.[8]

Specialized overlays, the Commission has correctly noted, are simply "another form of area code relief."[9] The introduction of a new area code, including a specialized overlay, does not enable any carrier to use more efficiently the numbers assigned to it, and specialized overlays should not be classified as a number conservation measure.

Specialized overlays are also inherently inefficient compared to traditional forms of NPA relief, whether all-services overlays or geographic splits. This is because with traditional relief methods, nearly eight million new numbers become available to all carriers providing service in the geographic area covered by the new NPA, whereas with specialized overlays, these eight million new numbers would instead be available only to a subset of all carriers. Specialized overlays thus increase the probability that scarce numbers will be stranded. As the Commission has noted:

> [T]echnology-specific or service-specific overlays that cover the same geographic scope as pre-existing NPAs might decrease, rather than increase, the efficiency

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[8] *NRO NPRM,* 14 FCC Rcd 10322, 10324 ¶ 5, 10423 ¶ 241 (1999). *See also First NRO Order,* 15 FCC Rcd 7574, 7577 ¶ 1 (2000)(We must "ensure that the limited numbering resources of the NANP are used efficiently, to protect customers from the expense and inconvenience that result from the implementation of new area codes, some of which can be avoided if numbering resources are used more efficiently, and to forestall the enormous expense that would be incurred in expanding the NANP.").

[9] *Third NRO Order,* at ¶ 80. *See also* CTDPUC Supplement at 4 ("SOs may be a viable alternative to traditional forms of relief."); CTDPUC Comments, Docket No. 99-200, at 10 (Feb. 14, 2001) ("CTDPUC views the TSTSO as another form of area code relief available to the states.").

> with which numbering resources are used. These circumscribed service-specific overlays would provide wireless carriers serving the area with many more NXX codes than they need, which would, at the same time, be unavailable to wireline carriers that need them.[10]

In this regard, the NANP Administrator has explained that technology-and service-specific overlays "will almost certainly lead to waste of valuable numbering resources,"[11] and for this reason, it has "long opposed service-specific code assignments."[12]

In summary, specialized overlays would not enhance number optimization in any manner. If anything, because of their inefficiency, specialized overlays have the potential to lead to "an acceleration of NANP exhaust,"[13] thereby undermining the Commission's entire optimization effort.

B. A SPECIALIZED OVERLAY WOULD BE ANTICOMPETITIVE AND DISCRIMINATORY TO MOBILE CARRIERS AND CUSTOMERS

The Commission has repeatedly recognized that a "specialized" (a.k.a., wireless) overlay would "impose significant competitive disadvantages on the wireless carriers, while giving certain advantages to wireline carriers,"[14] and would as a result, "unduly inhibit competition."[15] As

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[10] *NRO NPRM,* 14 FCC Rcd 10322, 10432 ¶ 259 (1999).

[11] Letter from Ronald R. Conners, NANPA, Director, to Geraldine A. Matise, Chief, Network Services Division (March 21, 1996).

[12] *Ameritech Numbering Order,* 10 FCC Rcd 4596, 4609 ¶ 31 (1995)(quoting NANPA).

[13] *Third NRO Order,* at ¶ 80.

[14] *See Ameritech Numbering Order,* 10 FCC Rcd at 4611 ¶ 35.

[15] *Second Local Competition Order,* 11 FCC 19393 19518 ¶ 285 (1996). The FCC did not change its views in the *Third NRO Order,* as evidenced by the fact that it did not change Rule 52.9 in any way. The FCC held only that not every specialized overlay is "necessarily *unreasonably* discriminatory." *Third NRO Order* at ¶ 73 (emphasis in original).

the Commission stated in the *Third NRO Order,* "consumers may be dissuaded from signing up for wireless service if they do not have access to numbers in the 'incumbent' area code."[16]

The CTDPUC, however, has suggested that its proposed specialized overlays would not be anti-competitive or discriminatory because commercial mobile radio service ("CMRS") does not compete with landline service:

> CTDPUC continues to believe that competition between the wireline and wireless industries does not exist and most likely will not exist until well beyond November 2002.[17]

The proposition that mobile services do not potentially compete with wireline services is not credible. Indeed, the CTDPUC advised the Commission only six months ago that "CMRS providers are now competing directly with wireline providers for residential local exchange customers":

> As Attachment 1 indicates, wireless providers in Connecticut appear to be competing with incumbent and competitive LECs by offering comparable telephone service packages that are considerably less than those of existing wireline service providers.[18]

The CTDPUC's Attachment 1 is an advertisement appearing in a Connecticut newspaper, which demonstrated that mobile service can be a much better value than landline service:

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[16] *Third NRO Order* at ¶ 71.

[17] CTDPUC Comments, Docket No. 99-200, at 8-9 (Feb. 14, 2001). *See also id.* at 10 ("CTDPUC does not believe that competition currently exists between the wireline and wireless industries.").

[18] CTDPUC Comments, Docket No. 01-184, at 7 and 9 (Sept. 21, 2001).

Comparison of Fixed and Mobile Service in Connecticut[19]

	Landline	Wireless
Monthly Service	$18.53	$35.00
Call Waiting	$4.50	Included
Caller ID	$7.50	Included
3-Way Calling	$4.00	Included
Voice Mail	$6.50	Included
Long Distance	$25.00	Included
Goes Anywhere	No	Yes
Total	**$66.03**	**$35.00**

The Commission has noted that as of a year ago, from three to five percent of mobile customers have engaged in "wireless substitution" – that is, they rely on their wireless handset as their only telephone.[20] The principal competition today between local exchange carriers ("LECs") and CMRS providers is that for "second lines," and with technology-blind numbering policies, CMRS carriers are winning this competitive battle. Almost twice as many American households subscribe to a mobile service than subscribe to a second wireline – 52 percent[21] vs. 28.6 percent, respectively.[22]

The relationship that exists today between LEC and CMRS providers confirms what the Commission has repeatedly recognized: specialized overlays would discriminate against CMRS carriers and inhibit competition, by artificially distorting consumer decisions. Specialized overlays have the potential to retard, if not reverse, the LEC/CMRS competition that is beginning to

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[19] *See id.,* Attachment 1.

[20] *See Sixth CMRS Competition Report,* 16 FCC Rcd 13350, 13382 (2001).

[21] *See* J.D. Power and Associates, "Wireless Phone Penetration Among U.S. Households Climbs Above 50 Percent as More First-Time Subscribers Enter the Marketplace" (Sept. 26, 2001).

[22] *See* Industry Analysis Division, *Trends in Telephone Service,* Table 8.4 (Aug. 2001).

emerge. The CTDPUC has not provided any evidence that this discriminatory impact is mitigated.

C. THE CTDPUC CANNOT SUCCESSFULLY SEGREGATE CERTAIN TECHNOLOGIES IN A SPECIALIZED OVERLAY

State regulators find specialized overlays attractive because such overlays offer the prospect of delaying the date that customers of "traditional" (*i.e.,* residential landline) services must undergo area code relief.[23] This end is accomplished by moving the demand for numbers by "non-traditional" service providers to a different NPA, which, in turn, increases the supply of remaining numbers in the existing NPA, thereby delaying the exhaust of the existing NPA.[24]

The objective of delaying the date of NPA relief for customers of "traditional" services is best achieved by moving all customers of "non-traditional" services to the new specialized overlay. Such an approach, however, would require "non-traditional" service customers to give back their current telephone numbers for numbers in the new overlay code. The Commission has repeatedly held that forced "take back" of numbers on only some customers would be unreasonably discriminatory in contravention of the Communications Act,[25] and it reaffirmed in the *Third NRO Order* that take backs impose "significant cost and inconvenience" on consumers.[26]

To its credit, the CTDPUC's specialized overlay proposal would not require mobile customers to give back their existing telephone numbers. The CTDPUC has recognized that "[c]learly, the public interest is not served if consumers would be required to 'turn back' their existing telephone numbers and undergo the unnecessary expense and inconvenience often asso-

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[23] *See* CTDPUC Supplement at 5 and 6.

[24] *See id.* at 4-6.

[25] *See* Part IV.A *infra.* Selective take back of numbers would also be inconsistent with the statutory requirement that numbering policies be "equitable." 47 U.S.C. § 251(e)(1).

ciated with changing telephone numbers."[27] Connecticut has 1.3 million households,[28] and had 1.28 million CMRS customers at the end of 2000[29] – a number that undoubtedly is higher today. Requiring this many customers to change their existing telephone number would entail significant and widespread cost and inconvenience.

The CTDPUC would apparently attempt to segregate new CMRS customers from existing CMRS customers, by placing the former in a specialized overlay. This proposed segregation cannot be achieved, however. The Commission's numbering rules require CMRS carriers to achieve certain utilization thresholds before acquiring a new supply of numbers.[30] Thus, CMRS carriers must use numbers in the existing NPAs before they assign numbers in any new specialized overlay. What such arrangement would do, as explained more fully below, is discriminate against new entrant PCS licensees, because incumbent cellular carriers have a far greater supply of numbers in the incumbent area codes.[31]

The CTDPUC's attempt to segregate LEC customers may also be doomed to failure because the rationale for specialized overlays is eliminated if (and when) wireless local number portability ("LNP") is implemented. CMRS carriers are currently scheduled to implement LNP later this year, although petitions have been filed to delay this deadline or eliminate the require-

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[26] *Third NRO Order* at ¶ 88.

[27] CTDPUC Comments, Docket No. 99-200, at 5-6 (Feb. 14, 2001).

[28] *See* http://quickfacts.census.gov/qfd/states/092000.html.

[29] *See* Industry Analysis Division, *Trends in Telephone Service,* Table 12.1 (Aug. 2001)("*2001 Trends in Telephone Service*").

[30] *See* 47 C.F.R. § 52.15.

[31] *See* Part IV.B *infra.*

ment altogether.[32] If (and when) wireless LNP is implemented, LEC customers will be able to convert their landline telephone number into a mobile number, and CMRS customers will be able to convert their mobile telephone number into a landline number. Thus, if wireless LNP is implemented, the rationale for segregation no longer exists.

The simple fact is that it is now too late to segregate wireless carriers and customers. Any attempt to segregate certain technologies or services is ultimately doomed to failure, but in the meantime, such temporary segregation attempts would have the real potential to distort the free flow of market forces. While specialized overlays may once have been an attractive interim mechanism to provide relief until CMRS carriers became pooling capable, SOs make no sense once CMRS carriers commence participation in number pooling.[33] Since wireless participation in number pooling is imminent, it is more efficient to implement an all-services overlay rather than a short-term specialized overlay.

D. CMRS Is a Geographic- Based Service

The CTDPUC initially proposed to base a specialized overlay on a carrier's pooling status, and CMRS carriers would have been included in the CTDPUC's original proposal because they were not pooling capable.[34] CMRS carriers will become pooling capable later this year, and the Commission appears to have determined that a specialized overlay based on pool-

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[32] *See Public Notice,* "WTB Seeks Comment on Wireless LNP Forbearance Petition Filed by Verizon Wireless," WT Docket No. 01-184, DA 01-1872, 16 FCC Rcd 15101 (2001). Sprint PCS has filed comments supporting the Verizon Wireless petition.

[33] The FCC draws certain conclusions from the New York City 917 NPA, which was initially a "wireless-only" overlay but later converted to an all-services overlay (because LECs needed access to additional NXX codes). *See Third NRO Order* at ¶ 75-77. Sprint PCS submits that this trial is not relevant to the situation today because number pooling was not operational at that time. If anything, the trial established that a specialized overlay is not efficient, because the 917 NPA was still converted to an all-services overlay.

[34] *See* CTDPUC Petition. *See also* CTDPUC Supplement at 4.

ing status would have to end on November 24, 2002, when CMRS carriers are scheduled to become pooling capable.[35]

In its post-*Third NRO Order* Supplement, the CTDPUC instead proposes to create a specialized overlay for "non-geographic-based services' providers or service providers whose subscribers have no preference where their telephone number are assigned."[36] Because the CTDPUC apparently intends to include CMRS carriers in any specialized overlay, it must believe that mobile customers are "not sensitive to the geographic location from where their TNs are assigned."[37] This belief is fundamentally mistaken, for the geographic location of telephone numbers is as important to CMRS customers as it is for LEC customers..

The geographic location of telephone numbers is important to customers (LEC or CMRS) because telephone numbers determine whether inbound calls will be rated as local or toll. Incumbent LECs have established rate centers, and a land-to-land call originating and terminating within the same rate center is generally rated as a local call, whereas calls between rate centers are generally billed as toll calls. Mobile customers expect that if friends and family can call their landline phone on a local basis, the same people can reach their mobile handset on a local basis. Mobile customers certainly do not expect that friends and family will incur toll charges in calling the mobile handsets, and Sprint PCS customers complain when friends and family incur such toll charges.

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[35] *See Third NRO Order* at ¶ 86.

[36] CTDPUC Supplement at 5-6. It is not clear to Sprint PCS precisely which types of services are to be included in the proposed specialized overlay. *But see Third NRO Order* at ¶ 82 ("State commissions . . . should therefore provide specific information on which technologies and services will be placed in any proposed SO.").

[37] *Id.* at 5.

Because of the way in which incumbent LECs rate their calls as local or toll, CMRS carriers must acquire "footprint" NXX codes (or after November 2002, thousands blocks) that are "rated" with particular ILEC rate centers – precisely so that a mobile customer's friends and family do not incur toll charges in calling the handset. As the Commission has explained:

> [A]lthough wireless carriers offer larger [outbound] calling areas and thus require fewer NXX codes for wireless service, they must request as many NXX codes as are required to permit wireless customers to be called by wireline customers on a local basis.[38]

Finding the "right" geographic-based telephone number is especially challenging in states that have numerous rate centers. Although Connecticut is the nation's third smallest state in terms of geography and includes only eight counties, the state currently has 86 different rate centers.[39]

In summary, mobile customers are as "sensitive" to the geographic location of their telephone number as LEC customers. The CTDPUC Petition and Supplement create ambiguities as to the type of services that are to be included in the specialized overlays. If it is intended that CMRS carriers participate in the specialized overlays, the request should be clarified to reflect that CMRS is a geographic-based service.

III. THE CTDPUC HAS NOT DEMONSTRATED THAT A SPECIALIZED OVERLAY WOULD BE SUPERIOR TO AN ALL-SERVICES OVERLAY

The Commission has ruled that a state commission seeking authority to implement a specialized overlay must demonstrate how "the numbering resource optimization benefits of the

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[38] *NRO NPRM,* 14 FCC Rcd 10322, 10370-71 ¶ 112 (1999). *See also id.* at n.174 ("[T]o enable the rating of incoming wireline calls as local, wireless carriers typically associate NXXs with wireline rate centers that cover either the business or residence of end-users.").

[39] To its credit, the CTDPUC reduced the number of rate centers from 115 to 86 in February 1998. Although the CTDPUC considered reducing further the number of rate centers by another 25% to 50%, it decided not to pursue additional consolidation because it believed that the 203 and 860 NPAs would exhaust before the 18 months needed to implement further rate center consolidation. *See DPUC Review of*

proposed SO would be superior to implementation of an all-services overlay."[40] The CTDPUC recognizes this standard,[41] and it has recited two reasons why it thinks a specialized overlay is superior to other forms of NPA relief.

The CTDPUC first contends that a specialized overlay would enable it to "assign telephone numbers (TN) in a more efficient manner."[42] Sprint PCS must respectfully disagree. The manner in which telephone numbers are assigned to carrier does not change whether the NPA relief plan takes the form of a specialized overlay, an all-services overlay, or a geographic split. In this regard, the CTDPUC has recognized elsewhere that there is "no difference between the assignment of numbers from the underlying NPA and transitional area codes and the assignment of numbers from existing NPAs and an all service area code overlay."[43]

The CTDPUC additionally asserts that a specialized overlay would provide a new supply of telephone numbers for carriers relegated to the specialized overlay.[44] This statement is, of course, accurate. But this observation is equally true of other forms of NPA relief, because *all* area code relief plans introduce a new supply of nearly eight million telephone numbers.[45] In summary, the CTDPUC has not shown how a specialized overlay is superior to an all-services overlay from a numbering resource optimization perspective,.

Management of Telephone Numbering Resources in Connecticut, Docket No. 96-11-01 REI (Sept. 22, 1999).

[40] *Third NRO Order* at ¶ 81.

[41] *See* CTDPUC Supplement at 3 ("Specifically, the Commission directed state commissions to discuss why the numbering resource optimization benefits of an SO would be superior to implementation of an all-services overlay.").

[42] *See id.* at 4.

[43] CTDPUC Comments, Docket No. 99-200, at 9 (Feb. 14, 2001).

[44] *See* CTDPUC Petition at 2.

The CTDPUC recites a third, non-optimization reason in support of a specialized overlay: customers of "traditional" (a.k.a., landline) services would be less inconvenienced by the implementation of a specialized overlay. Specifically, the CTDPUC states that the lives of the existing two Connecticut NPAs would be extended because some of the demand for numbers will be moved to the specialized overlays.[46]

The CTDPUC never explains, however, why preserving an NPA for landline services meets the Commission's criteria of number optimization and cost/benefit analysis. Mobile customers deserve equal consideration and treatment to wireline customers.[47] In fact, these customers are likely to be the same,[48] so it makes even less sense to discriminate against a customer's wireless service.

The CTDPUC also does not explain how residential LEC customers would benefit by a specialized overlay vs. an all-services overlay (even assuming that they are entitled to protections not afforded to CMRS customers). Geographic identity cannot be a concern, because there are ample thousands blocks available in the existing NPAs for assignment to LECs needing additional numbers to meet growth,[49] and the LEC growth rate has slowed considerably. Ten-digit dialing also cannot be a concern, given that nearly half of all local calls today in Connecticut are

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[45] A new NPA makes a total of 792 additional NXX codes available for assignment. *See NRO NPRM,* 14 FCC Rcd 10322, 10331 n.23 (1999). Thus, potentially 7,920,000 additional numbers are available with a new NPA, regardless of the type of relief plan adopted.

[46] *See* CTDPUC Supplement at 4. *See also* CTDPUC Petition at 2.

[47] Available data suggests that the number of CMRS customers is approaching the number of LEC residential customers. CTIA estimates that there are today over 131 million CMRS customers. *See* www.wow-com. According to the most recent FCC data, LECs served 127.8 million residential lines at the end of 1999. *See 2001 Trends in Telephone Service* at Table 8.4.

[48] As noted above, in 2000, Connecticut included 1.3 million households and had 1.28 million CMRS customers. *See* notes 28 and 29 *supra.*

dialed with 10 digits,[50] and given that all local calls would be dialed with 10 digits regardless of whether a specialized or all-services overlay is implemented. It thus appears that there would be no difference to residential LEC customers whether the relief plan is a technology-neutral all-services overlay or a discriminatory specialized overlay.

The Commission has additionally required petitioning state commissions to demonstrate that "the benefits will outweigh the costs of implementing the SO."[51] The CTDPUC Petition and Supplement does not include such a cost-benefit analysis. The direct cost of implementing an all-services overlay vs. a specialized overlay (*e.g.,* network translations, customer education) is largely the same. The indirect costs are very different, however. While an all-services overlay is technology/service neutral in every respect, only a specialized overlay has the real prospect of distorting competition. As the Commission has recognized:

> [P]lacing services and technologies in SOs could have an adverse impact on the affected customers and service providers. For example, consumers may be dissuaded from signing up for wireless service if they do not have access to numbers in the "incumbent" area code.[52]

In summary, the CTDPUC has not met the burden that the Commission has established to receive delegated authority to implement specialized overlays. There are no apparent benefits from a specialized overlay, but the costs could fundamentally distort competition.

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[49] According to the Connecticut Pooling Administrator (*see* www.numberpooling.org), as of February 1, 2002, 642 thousands blocks were available in the 203 NPA and 1,355 thousands blocks were available in the 860 NPA.

[50] According to the CTDPUC, 10-digit dialing is "currently in effect for approximately 45% of all local calls in Connecticut". CTDPUC Supplement at 3.

[51] *Third NRO Order* at ¶ 80. *See also id.* at ¶ 78 ("We therefore must weigh the costs of allowing state commissions to implement SOs against the benefits to be realized.").

[52] *Third NRO Order* at ¶ 71.

IV. CERTAIN RESTRICTIONS ARE NECESSARY IF THE COMMISSION GRANTS THE CTDPUC PETITION

Sprint PCS does not believe that a specialized overlay can be justified, because such an overlay inherently distorts competition and necessarily undermines the Commission's optimization efforts. Furthermore, with wireless carriers scheduled to participate in number pooling soon, any interim benefits have been eliminated. In addition, as demonstrated above, the CTDPUC has not met the criteria that the Commission has established for grant of authority to implement a specialized overlay. If, however, the Commission nonetheless delegates authority to the CTDPUC to implement a specialized overlay, it should impose the following restrictions on this delegated authority.

A. The Forced "Take Back" of Mobile Customer Telephone Numbers Should Not Be Permitted

One of the major benefits of an all-services overlay form of relief is that no existing customer need change his or her telephone number when the relief plan is implemented. In contrast, the geographic split alternative requires that roughly half of all customers must generally accept a number change as part of the relief plan. The Commission has recognized that the "take back" of numbers results in "significant cost and inconvenience" to customers.[53] With a geographic split, however, the burden is shared among all carriers and customers, although the Commission has noted that mobile customers face a special burden in changing their telephone numbers as a result of a geographic split.[54]

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[53] *Third NRO Order* at ¶ 88.

[54] *See Second Local Competition Order,* 11 FCC Rcd 19392, 19528 ¶ 308 (1996). The FCC has acknowledged that mobile customers face a special burden (*e.g.,* their handset must often be reprogrammed), and for this reason, it has given states the flexibility to decide whether mobile customers should be grandfathered to avoid the extra cost associated with changing numbers. *See Third Local Com-*

The subject of "take backs" also arises in the context of specialized overlays – namely, should mobile customers be required to give back their telephone number in the existing NPA and accept a number containing the new specialized overlay NPA? The Commission has twice considered this very issue, and on both occasions, it has ruled that such selective take backs would be unlawfully discriminatory under the Communications Act:

> Ameritech's "take-back proposal" would confer a significant competitive advantage on wireline carriers that would be permitted to retain their NPA 708 numbers because customers of those carriers would be able to avoid the inconvenience associated with number changes. On the other hand, paging and cellular companies would be placed at a distinct disadvantage by the "take-back proposal" because their customers would suffer the cost and inconvenience of having to surrender existing numbers and go through the process of reprogramming their equipment, changing over to new numbers, and informing callers of the new numbers.[55]

As the Commission recognized only 14 months ago, in a specialized overlay context, "'take-backs' would exclusively affect customers of the particular technologies for which the overlay is established. We agree with commenters that these costs would be significant, would impose a disparate impact on customers of the services affected by the 'take back,' and would thus adversely affect competition."[56] Selective take backs would also be inconsistent with the statutory requirement that numbering policies be equitable.[57]

To its credit, the CTDPUC does not propose the take back of mobile customer telephone numbers. As the CTDPUC has previously advised the Commission, it "concurs" with the Commission's policy against selective number take back:

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petition Reconsideration Order, 14, FCC Rcd 17964, 18009 ¶¶ 68-69 (1999)(FCC approves Massachusetts Commission's decision permitting the grandfathering of Type 2 numbers).

[55] *Ameritech Numbering Order,* 10 FCC Rcd 4596, 4608 ¶ 27 (1995). *See also Second Local Competition Order,* 11 FCC Rcd 19392, 19527-28 ¶¶ 304-08 (1996).

[56] *Second NRO Order,* 16 FCC Rcd 306, 365 ¶ 134 (Dec. 29, 2000).

[57] *See* 47 U.S.C. § 251(e)(1).

> Clearly, the public interest is not served if customers would be required to "turn back" their existing telephone numbers and undergo the unnecessary expense and inconvenience often associated with changing telephone numbers.[58]

The CTDPUC seeks authority to "work with the carriers to assign . . . existing subscribers TNs from the new SOs."[59] Sprint PCS does not oppose this proposal, so long as it is clear that mobile carriers and customers will not be required to give back numbers already assigned from one of the existing NPAs.

The CTDPUC also seeks authority to require carriers designated to participate in any specialized overlay to "return all unopened NXXs from the existing area codes to the NANPA."[60] Sprint PCS also does not oppose this proposal – so long as NXX codes from the new NPA can be activated in the same time frame that codes from an existing NPA are scheduled for activation. The Commission has adopted rigorous requirements to obtain additional telephone numbers, and the public interest would not be served if a carrier is deprived of selling services that the public finds of value because an NXX code in one NPA has been taken away before an NXX code in another NPA becomes available.

There were nearly 1.3 million CMRS customers in Connecticut at the end of 2000.[61] The CTDPUC is eminently correct in taking the position that this many people – over 47% of every

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[58] CTDPUC Comments, Docket No. 99-200, at 7-8 (Feb. 14, 2001). *See also* CTDPUC Supplement at 8 ("CTDPUC is well aware that the public interest is not served if consumers are required to 'turn back' their existing telephone numbers and undergo the unnecessary expense and inconvenience often associated with changing telephone numbers.").

[59] CTDPUC Supplement at 7.

[60] *Id.* at 7.

[61] There were 1,277,123 Connecticut-based mobile customers as of December 31, 2000. *See* Industry Analysis Division, *Trends in Telephone Service,* Table 12.1 (Aug. 2001). Given the strong growth in CMRS subscribership during 2001, the total number of Connecticut mobile customers is undoubtedly higher today.

Connecticut resident aged 15 years or older[62] – should not be required to change numbers as a result of the introduction of a new area code.

B. TEN-DIGIT DIALING SHOULD BE REQUIRED FOR ALL LOCAL CALLS IF A SPECIALIZED OVERLAY IS IMPLEMENTED

The Commission should require that 10-digit dialing be implemented concurrently with the implementation of a specialized overlay. The requirement of 10-digit dialing for all local calls when an overlay relief plan is implemented has been a cornerstone of the Commission's number administration policies and its competition policies.[63] As the Commission noted in its recent *Third NRO Order*:

> Because we continue to believe that ubiquitous ten-digit dialing when an overlay is implemented would maximize numbering resource optimization, we favor SO proposals that include ten-digit dialing in the SO NPA as well as the underlying area code, in the same manner that ten-digit dialing is required when all-services overlays are implemented. Mandatory ten-digit dialing, we believe, minimizes anti-competitive effects due to dialing disparities, which, in turn, avoids customer confusion.[64]

The Commission has noted that permitting seven-digit dialing within the existing NPA would distort competition by giving incumbent carriers a completely artificial advantage by being able to offer customers seven-digit dialing when new entrant competitors could generally offer only 10-digit dialing:

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[62] According to the 2000 Census, Connecticut has 3,405,565 residents, 2,696,490 of which are 15 years and older. *See* www.census.gov/census2000/states/ct.html.

[63] *See, e.g.,* 47 C.F.R. § 52.19(c)(3)(iii); *Second Local Competition Order,* 11 FCC Rcd at 19518-19 ¶¶ 286-88 (FCC imposes mandatory 10-digit dialing), *recon. denied,* 14 FCC Rcd 17964 (1999)(FCC refuses to reconsider requirement), *aff'd New York* v. *FCC,* 267 F.3d 91, 107 (2d Cir. 2001)(Court holds that "imposition of 10-digit dialing is a valid condition"). The FCC has also denied every request seeking a permanent waiver of the 10-digit dialing rule. *See, e.g., New York Petition for a Permanent Waiver,* 13 FCC Rcd 13491 (1998); *Pennsylvania Petition for a Permanent Waiver,* 12 FCC Rcd 3783 (1997).

[64] *Third NRO Order* at ¶ 92.

> Because the incumbent would be likely to have more numbers in the old NPA than competitive LECs, it would be better able to assure its new customers the convenience of 7-digit dialing for the majority of their local calls. . . . [I]n the absence of mandatory 10-digit dialing, a customer would find it less attractive to obtain service from a competitive LEC solely because the incumbent LEC would have access to a larger pool of NXXs in the old NPA.[65]

Importantly, the concerns the Commission expressed with respect to incumbent LECs applies equally well with incumbent cellular carriers. In the 860 NPA, for example, one cellular carrier has a total of 33 NXX codes in eight rate centers and the other cellular carrier has 30 NXX code assignments in 10 rate centers, while Sprint PCS has 14 NXX codes in only two rate centers.[66] Without 10-digit dialing, there would be many situations where cellular carriers could offer seven-digit dialing to prospective customers while Sprint PCS could offer only 10-digit dialing[67] – a disparity that would result solely because of the cellular 10-year head start advantage. Such a disparity would distort competition.

The CTDPUC asserts that mandatory 10-digit dialing is "not . . . necessary" with a specialized overlay,[68] although this belief appears to overlook the discriminatory impact of disparate dialing upon wireless customers and the incumbent/new entrant discrimination problem discussed above.[69] Acknowledging that 45% of all local calls in Connecticut today are dialed with 10 digits, the CTDPUC further recognizes that the imposition of mandatory 10-digit dialing

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[65] *Third Local Competition Reconsideration Order,* 14 FCC Rcd at 17993 ¶ 40.

[66] 860-NXX assignment data obtained from www.nanpa.com.

[67] The seven- vs. 10-digit dialing advantage would occur on both outgoing (mobile-to-land) and incoming (land-to-mobile) calls.

[68] *See* CTDPUC Supplement at 8.

[69] *See* Part I.B *supra.*

would "not . . . be an issue."[70] The CTDPUC therefore states that it "will defer to the Commission" on this subject.[71]

Congress enacted the dialing parity statute to eliminate the competitive distortion caused by the number of digits that a customer must dial.[72] The free flow of market forces and competitive parity can be maintained only if all customers dial the same number of digits for all local calls – whether within the existing NPA, within the specialized overlay, or between the two NPA codes. Accordingly, if the Commission permits the CTDPUC to implement one or more specialized overlays, it should require mandatory 10-digit dialing for all local calls within the area served by the overlay, including calls within the existing area code. The CTDPUC has recognized in this regard that 10-digit dialing for local calls can actually reduce customer confusion.[73]

C. THE COMMISSION SHOULD CONFIRM THAT THERE WILL BE NO CHANGES IN ROUTING AND RATING IF A SPECIALIZED OVERLAY IS IMPLEMENTED

The Commission has recognized that specialized overlays may raise rating and routing issues, and it has therefore directed that state commissions seeking authority to use such overlays must "address specifically how they will resolve such issues, especially the rating and routing of calls placed between the underlying area codes and the SO NPA."[74] The CTDPUC limits its discussion of this important issue to the following three sentences:

> Regarding the Commission's request that the states address call rating and routing issues, CTDPUC does not believe this to be an issue in Connecticut because the

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[70] *See* CTDPUC Supplement at 3 and 8.

[71] *See id.* at 8.

[72] *See* 47 U.S.C. § 251(b)(3).

[73] *See Application of Teleport Communications Group Connecticut for an Advisory Ruling,* Docket No. 98-02-15, 1998 Conn. PUC LEXIS 411 at *13 (Dec. 9, 1999)("CTDPUC finds that 10-digit dialing to complete local calls between area codes is necessary to minimize call routing errors and customer confusion.").

[74] *Third NRO Order* at ¶ 83.

> two SOs will overlay the existing 203 and 860 NPAs. Routing and rating of calls will continue as if they were made from the underlying area codes. Consequently, carriers and end users will experience no difference in the manner in which calls are routed and rated today.[75]

However, only last year the CTDPUC "recognize[d] that creating such [SOs] would raise rating and routing issues which must be resolved."[76]

To remove any potential for future controversy, Sprint PCS asks the Commission to make the following three clarifications if it decides to permit the CTDPUC to implement one or more specialized overlays:

1. The routing of land-to-mobile calls will not change with the implementation of a specialized overlay. In most instances, LECs and CMRS carriers interconnect with each other using Type 2A interconnection *via* the LEC tandem. End office, Type 2B, interconnection is used where two carriers exchange a sufficient volume of traffic between a particular end office switch and a particular mobile switching center ("MSC"). The Commission should confirm that if CMRS carriers are relegated to a specialized overlay, a CMRS carrier may elect to use the existing Type 2B facility for all traffic exchanged between the two switches, regardless of the NPA involved.
2. The rating of land-to-mobile calls as local will not change with the implementation of a specialized overlay. Thus, if a CMRS carrier has an NXX code rated in a particular LEC rate center that would create a local call today, specialized overlay NXX codes rated in the same LEC rate center will remain local calls, even though the LEC customer may have to dial 10 digits to complete the local call.

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[75] CTDPUC Supplement at 6.

3. Land-to-mobile calls made from an existing NPA to a specialized overlay number shall be dialed with only 10 digits, and not 11 digits. The Commission has noted that the "public interest is well-served by a uniform dialing pattern, such as 10-digit dialing for all local calls and 1+10 digits for all long distance calls, which clearly differentiates between local and toll calls."[77] LECs should not be given the flexibility to require their customers to dial 1+10 digits to make a local land-to-mobile call, because such a dialing pattern would mislead LEC customers into believing that they will incur toll charges in calling the mobile customer.

D. THE COMMISSION SHOULD CONFIRM THAT POOLING-CAPABLE CARRIERS MAY PARTICIPATE IN EXISTING POOLS

As noted above, Sprint PCS does not believe that a specialized overlay can be justified. If, however, the Commission determines that CMRS carriers should be relegated to a specialized overlay, it should at least confirm that once they become pooling capable, CMRS carriers may access existing number pools in the existing NPAs – rather than needlessly using numbering resources in a new NPA.

Wireline pooling has been enormously successful in Connecticut. The CTDPUC has recovered numerous thousands blocks throughout the state, including in less populated areas:

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[76] CTDPUC Comments, Docket No. 99-200, at 17 (Feb. 14, 2001).

[77] *Third Local Competition Reconsideration Order,* 14 FCC Rcd 17694, 17992 ¶ 39 (1999).

Available Thousands Blocks
In Selected Connecticut Rate Centers[78]

Rate Center	Town's Population	Blocks Available	Unused Numbers Available
Canton	1,563	25	25,000
Farmington	2,500	43	43,000
Glastonbury	7,082	52	52,000
Harwinton	3,293	16	16,000
Old Saybrook	1,820	24	24,000
Putnam	6,850	34	34,000
Stafford Springs	4,100	17	17,000
Windsor Locks	12,358	61	61,000

The Commission has noted that the "benefits of pooling are enhanced when a larger number of carriers are able to participate in pooling within an NPA."[79] It would make no sense for pooling-capable carriers relegated to a specialized overlay to open a new NXX code in the Canton rate center, for example, when 25 blocks (containing 25,000 unused numbers) are already available in the underlying NPA. Accordingly, the Commission should confirm that CMRS carriers may access existing pools in the existing NPAs when they become pooling capable.

[78] Pooling data is obtained from the Pooling Administrator (www.numberpool.org) and is current as of February 1, 2001. Because the population of the rate center is not known, Sprint PCS uses the population of the largest town in the rate center.

[79] *Third NRO Order* at ¶ 87.

V. THE COMMISSION SHOULD REQUIRE THE CTDPUC TO IMPLEMENT ONLY ONE RELIEF CODE FOR THE ENTIRE STATE OF CONNECTICUT

The CTDPUC seeks authority to implement two specialized overlays, one over the 203 NPA code and the other over the 860 NPA code.[80] Whether it permits the CTDPUC to implement a specialized overlay or not, the Commission should hold that the CTDPUC may not implement more than one relief code covering the entire State of Connecticut. Activation of two relief codes in Connecticut would be wasteful and would have the undesirable effect of accelerating the premature exhaust of the NANP.

NPA exhaust is driven by exhaust of NXX codes, which are used to stock thousand block number pools and which are assigned to carriers that are not pooling capable. Connecticut had a run on NXX codes, largely for two reasons: it has a large number of rate centers given its size, and a large number of competitive LECs entered the Connecticut market and these CLECs often sought NXX codes in numerous rate centers. The implementation of number pooling in Connecticut has been very successful in increasing the efficiency in which LECs use their numbers and in introducing a new supply of available numbers (in the form of uncontaminated thousands blocks). CMRS carriers will be able to access these available number blocks when they become pooling capable later this year. However, a continuing supply of available NXX codes is also still needed.

As noted earlier, the Connecticut NPAs are nearing exhaust.[81] The issue, then, is not whether Connecticut needs NPA relief, but whether it should activate one relief code or, as the CTDPUC proposes, two relief codes. It is understandable that the CTDPUC would seek two additional relief codes, one for each existing NPA, since this is the way that area code relief has

[80] *See* CTDPUC Supplement at 1 n.1.

traditionally been implemented. However, the potential of NANP exhaust requires that this policy be re-examined. The Commission has recognized that the cost to replace the NANP will range from $50 to $150 billion and that a replacement numbering plan would take 10 years to implement.[82]

The CTDPUC has taken the position that it is important that specialized overlays "conform to existing area code boundaries,"[83] although it has not explained this position. Sprint PCS questions whether Connecticut residents truly deem the existing area code boundary, introduced in 1995, as sacrosanct. Connecticut is small; the State encompasses only 4,845 square miles and it is the nation's third smallest state.[84] Our numbering plan, the NANP, has been in existence for 55 years, and during the first 48 years (1947-1995), Connecticut included only one NPA (203). It would therefore appear that Connecticut residents would easily adjust to an overlay relief NPA code that covers the entire state.

This is one point that should be uncontested. The use of a new NPA code will provide 7,920,000 new telephone numbers – which is more than twice the number of residents in Connecticut. This quantity should be more than adequate to meet Connecticut's future numbering needs. Given the enormous costs of replacing our numbering system, two NPAs should not be assigned to a state, when one NPA will adequately meet all numbering needs for the foreseeable future. Accordingly, unless the CTDPUC can convincingly demonstrate that there is a critical need for two relief NPAs, the Commission should hold that there be only one NPA assigned to Connecticut and that the NPA encompass the entire state.

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[81] *See* Part I, *supra*.

[82] *See NRO NPRM,* 14 FCC Rcd at 19326 ¶ 5 and n.8.

[83] CTDPUC Comments, Docket No. 99-200, at 7 (Feb. 14, 2001).

VI. CONCLUSION

The Commission's consistent position has been that its numbering policies should be technology neutral: "Our goal is to have technology-blind area code relief that does not burden or favor a particular technology."[85] This policy guarantees that number administration practices do not distort competition, and this policy has facilitated the potential for LEC/CMRS competition. As importantly, however, a technology-blind numbering policy also promotes the Commission's numbering optimization efforts, because ensuring that existing numbering resources are equally available to all carriers helps guarantee that numbers are used most efficiently.

The Commission provided in the *Third NRO Order* a mechanism to give state regulators the opportunity to demonstrate that specialized overlays are superior to traditional forms of relief and that the benefits of such overlays outweigh their costs.[86] The Commission did not rescind its prohibition against relief plans that unduly favor or disfavor a particular industry segment.[87] The CTDPUC has not satisfied the Commission's standards regarding specialized overlays, and accordingly, the Commission should deny the CTDPUC the authority requested in its Petition.

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[84] *See* http://quickfacts.census.gov/qfd/states/092000.html.

[85] *Third Local Competition Reconsideration Order,* 14 FCC Rcd at 18009 ¶ 68. *See also Second Local Competition Order,* 11 FCC Rcd at 19528 ¶ 308.

[86] However, given the statutory requirement that numbers be made available "on an equitable basis," 47 U.S.C. § 251(e)(1), it is not apparent that the FCC has the statutory basis to adopt an inequitable relief plan, even if the FCC believes that a discriminatory plan is superior to a technology-neutral plan.

[87] *See* 47 C.F.R. § 52.9(a).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jo-Ann Monroe, do hereby certify that on this 26th day of February 2002, a copy of the foregoing "Opposition" was served by facsimile and U.S. first-class mail, postage prepaid, to the following:

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